

## EXPLANATORY MEMORANDUM

### THE PLANT HEALTH (IMPORT INSPECTION FEES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2011 No. 384

1. The Department of Agriculture and Rural Development (DARD) proposes to make the above named Statutory Rule under powers conferred on it by Section 2(2) of the European Communities Act 1972 and section 56(1), (2) and (5) of the Finance Act 1973 and of all powers enabling it in that behalf and with the approval of the Department of Finance and Personnel, makes the above Regulations which are subject to negative resolution.

#### 2. Description

2.1 These Regulations amend the Plant Health (Import Inspection Fees) Regulations (Northern Ireland) 2005 (S.R. 2005/373) (“the principal Regulations”). The principal Regulations implement Article 13d of Council Directive 2000/29/EC (O.J. No. L. 169, 10.7.2000, p1) (“the Directive”) which requires Member States to charge fees to cover the costs of documentary, identity and plant health checks of certain imports of plants, plant products and other objects from third countries.

2.2 The Directive contains a procedure (Articles 13a(2), 13d(2) and 18(2)) for setting reduced rates of inspection for imports of certain plants and plant products and for charging fees at a proportionately reduced rate.

2.2 The Department is committed to implement the EC reduced inspection rates for low-risk trade in plant material imported from countries outside the EC, as a result of consultation with the industry.

#### 3. Matters of special interest to the Examiner of Statutory Rules

3.1 None.

#### 4. Legislative Background

4.1 The Plant Health Directive contains measures to be taken in order to prevent the introduction into, and spread within, the Community of serious pests and diseases of plants and plant produce. The Directive is implemented in Northern Ireland by the Plant Health (Northern Ireland) Order 2006

4.2 The Directive requires Member States to carry out and charge for import inspections on all consignments subject to plant health control. In broad terms these checks cover plants, potatoes, the major fruit other than bananas and grapes, cut flowers and some leafy

vegetables. A reduced level of inspection, and pro-rata reduction in charges, is permitted on certain trades with a history of compliance.

4.3 Member States may either set the level of charges based on the actual cost of carrying out the inspections or use the standard (minimum) fees set out in the Directive. We are now below the EU minimum charging level outlined in Directive 2000/29, and we will bring these charges in line with a more up to date exchange rate.

## **5. Consultation**

5.1. A consultation was carried out in 2005 at the onset of the reduced rates programme which was fully endorsed by the industry. Therefore, no consultation is required for this legislation.

## **6. Territorial Extent and Application**

6.1 This Statutory Rule applies to Northern Ireland.

## **7. European Convention on Human Rights**

7.1 The proposed legislation has been screened for these issues and none were identified.

## **8. Equality Impact**

8.1 These regulations will apply in equal measure to all Section 75 groups. It is not expected that any of these changes will impact differentially across any of the section 75 groups.

## **9. Regulatory Impact**

9.1 A fee increase, which is within EU minimum rate, will not place any significant additional financial burden on the industry. It is not therefore considered necessary to conduct a Regulatory Impact Assessment.

## **10. Financial Implications**

10.1 There are negligible financial implications.

## **11. Policy background**

11.1 The Department delivers a number of statutory services to the potato industry and, in accordance with the general policy on fees and charges set out in Department of Finance and Personnel (DFP) guidelines, the cost of providing these services should be met fully by service users. Under the DFP guidelines, DARD is required to review the cost of providing its services and the level of fees on an annual

basis, and, where appropriate, to apply an increase to cover pay and price movements. DARD endeavours to keep costs to a minimum, and ensures that inspection fees are set only to cover the costs and never to make a profit.

11.2 Draft regulations have been prepared setting out revalorised fees based on the Euro/sterling exchange rate as at 19 July 2011 (the most up to date rate possible in drafting the regulations), resulting in an increase in the total charge for a typical consignment for documentary checks of 0.3%, from £ 5.29 to £ 6.11. The new charges are set out in Schedules 2 and 3 of the Regulations.

11.3 If current import inspection charges are below the minimum level required under EU legislation. Failure to address this situation could result in infraction action by the European Commission. However, the risk of such action is thought to be low – several member states fail to levy any charges at all.

## **12. Impact**

12.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has negligible impact on business, charities or voluntary bodies.

## **13. Contact**

Renee McDowell at the Department of Agriculture Tel: 02890 520855 or e-mail: [renee.mcdowell@dardni.gov.uk](mailto:renee.mcdowell@dardni.gov.uk) can answer any queries regarding the Statutory Rule.